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C O N F I D E N T I A L NAIROBI 005253

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FOR DOJ DEPUTY ASSISTANT ATTORNEY GENERAL BRUCE C. SWARTZ FROM
AMBASSADOR MICHAEL E. RANNEBERGER

DEPT FOR AF/E AND L
JUSTICE FOR CRIMINAL DIVISION
FBI FOR INTERNATIONAL OPERATIONS

E.O. 12958: DECL: 12/6/2031
TAGS: [PGOV](#) [KCOR](#) [PREL](#) [PINR](#) [KE](#)
SUBJECT: REQUEST FOR ANTI-CORRUPTION INVESTIGATION OF U.S. CITIZEN

Classified by Ambassador Michael E. Ranneberger for reasons 1.4 (B)
and (D).

¶1. (C) Summary: I write to request the formal investigation by the Department of Justice (DOJ) of Merlyn H. KETTERING, a U.S. citizen currently residing in Maryland, under the Foreign Corrupt Practices Act (FCPA). Available evidence indicates Kettering was directly involved in several grand-scale corruption cases in Kenya. Kettering is a viable suspect in his own right, and an active U.S.-based investigation could also secure his cooperation in bringing other corrupt persons to justice in Kenya. Assisting the Government of Kenya in investigating corruption cases is strongly in the U.S. national interest. My request has the full support of Embassy Nairobi's Legal Attache, who has already been in regular touch with DOJ and the FBI about this case. End summary.

Corruption in Kenya Undermines U.S. Interests

¶2. (C) By way of background, corruption is systemic in all facets and at all levels of Kenyan political and economic life, with significant negative consequences for the country's economic and political development and for the successful achievement of USG goals in Kenya. The response of the Government of Kenya (GOK) to corruption, and especially to grand-scale corruption involving senior politicians and officials, has been mixed since the administration of President Mwai Kibaki came to power in 2002 promising zero tolerance on graft. A number of important legal and institutional reforms have been launched, however, many with direct support from the USG. Among the most important, the Kenya Anti-Corruption Commission (KACC) was established in May 2003. KACC became operational in February 2005 with a mandate to investigate all forms of official corruption.

The Anglo-Leasing Mega-Scandal

¶3. (C) The KACC's most significant cases are collectively referred to as the "Anglo-Leasing" case. Anglo-Leasing in fact refers to 18 separate-but-similar multi-million dollar contracts that were entered into by various Kenyan government agencies and foreign companies controlled by similar conspirators. Each contract was for the supply and/or maintenance of security and/or security-related equipment. The total value of the 18 contracts exceeded \$700 million. The contracts span from June 1998 through January 2004, with the bulk awarded in the 2002-2003 timeframe. The GOK has stopped payment on the contracts, and the KACC is attempting to investigate and bring to justice the perpetrators. KACC's success in this regard is critical to its mission, reputation and future viability.

14. (C) Should you need it, our Legal Attache can provide upon request a summary of each of the contracts itemizing the purpose of the contract, amounts, vendor/supplier, and bank accounts to which funds were disbursed. KACC investigators assert that all 18 contracts have the following common features:

-- All contracts were awarded on single sourcing basis without competitive bidding, and procurement regulations were not adhered to;

-- The contracts were classified as "secret";

-- There was no due diligence on any of the contracts;

-- Although the awards were made to companies that were described as registered in foreign countries, including Switzerland, the U.K. and the U.S., investigations to date reveal these companies are not registered entities in any foreign country nor in Kenya;

-- The contract documents and related correspondence do not reveal the names of company Officers, Directors or Shareholders, and no company profile was provided. There is currently no indication that these companies are legal entities;

-- Supplies and services were either not delivered or highly overpriced, and the contract specifications were drawn up by suppliers;

-- In some instances the same contract was later repeated under a different name, resulting in double payments;

-- Each contract consisted of two facets - a supply contract and a financing contract. The financing contract involved a company that was fronted as a lender to the GOK for the cost of the contract;

-- In reality there were no monies lent to GOK, but merely promissory notes issued by the GOK to the "financiers";

-- In each of the 18 contracts, the Government of Kenya (GOK) disbursed funds to overseas bank accounts, before there were any services and/or supplies received;

-- Although the suppliers/vendors operated under different names, in many cases the addresses of these various companies and the bank accounts to which money was disbursed, are the same;

-- Evidence collected to date indicates that the primary subjects behind each of the 18 contracts are either members of the Deepak KAMANI family, or those affiliated with Anura PERERA; and

-- It is suspected there were persons then in Nairobi who acted on behalf of KAMANI and PERERA. Among them, Dr Merlyn KETTERING has been implicated as a "Consultant" for the KAMANI family.

The Involvement of Merlyn Kettering

15. (C) Publicly available evidence and KACC investigations lead to a reasonable suspicion that the contracts were fraudulent and that they were intended to loot public funds from the Kenyan Treasury. The main subjects are GOK officials, some high-ranking, Deepak KAMANI family members, Anura PERERA, and certain other politically connected persons. The U.S. has permanently revoked the visa privileges of KAMANI and PERERA under Presidential Proclamation 7750 for their corrupt activities in Kenya. KETTERING is suspected to have been involved in consultancy work for the KAMANI family. Specifically, he signed several documents, and attended meetings with GOK officials, relating to not less than five of the 18 contracts under investigation. He is said to have delivered the contract documents to GOK officials in Nairobi, and generally he appears to have been the link between the KAMANIs and the GOK. In one instance, he had signed a letter in the capacity of Director of LBA Systems Ltd, which is one of the bogus firms awarded a contract.

16. (C) Dr. KETTERING is a U.S. citizen. He is Caucasian, bearded as per the last available photograph. Date of birth is 28th August 1942 in Ohio. He is the son of Warring Curtis KETTERING (deceased) of Polk, Ohio. He is married to a Jamaican citizen, Una Mae Henry

KETTERING. They have two children, Gimbiya Mae (daughter) and Kahlid Henry (son). He possibly lives also with his niece, Bethany Lynn BADGER. KETTERING retains U.S. Passport No. 011878954. His wife has Jamaican Passport No. 043062. His children Gimbiya and Kahlid have U.S. Passport No.s 100025825 and 100025826, respectively. BADGER retains U.S. Passport No. 013448466. KETTERING attended high school in the U.S. He obtained a PhD from the University of Pittsburgh, between 1974 and 1977. He belongs to the Church of the Brethren, and had lived in Kenya for 17 years before recently returning to the U.S. He reportedly speaks English, French, Greek and Hausa.

¶7. (C) When news of the Kenyan criminal investigation into the Anglo-Leasing scams was announced in mid-2004, KETTERING and others departed Kenya. KETTERING, a suitable target in his own right, may also be a significant key to the larger investigation in Kenya. Any investigation or prosecution of KETTERING is likely to result in cooperation with U.S. and/or Kenyan authorities that may lead to more significant targets inside and outside the Kenyan government. KACC has advised it is prepared to offer KETTERING "witness status" if he cooperates.

Embassy Request and Recommendation

¶8. (C) I understand these allegations have been presented to the Public Integrity Section and Fraud Section, DOJ, by the Public Corruption Unit of FBIHQ. I further understand that the Criminal Division is to consider whether a formal criminal investigation is initiated by U.S. federal authorities. I would like to stress that rampant corruption throughout Kenya has a detrimental effect on U.S. Government efforts in Kenya, and the involvement of U.S. persons or companies in grand scale corruption greatly complicates our ability to successfully advocate with GOK officials that they should do more in the war on graft. Therefore, my Embassy team and I strongly recommend that DOJ formally open an active investigation of Merlyn H. KETTERING under the FCPA and/or other relevant provisions of U.S. law. Our Legal Attache stands ready to assist and liase between DOJ and the KACC in this matter, and you can be assured that I will personally ensure the fullest cooperation between U.S. and Kenyan investigators in this case.
Ranneberger